IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.MC.No. 2897 of 2000()

ST.5/2000 of JUDL. MAGISTRATE OF FIRST CLASS-II, HARIPAD
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PETITIONER: ACCUSED
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1. **M.BASHEER, DIRECTOR OF KILBAN FOODS (INDIA) PVT LTD., POOVATTUPARAMBU, CALICUT.**

2. **M/S. KILBAN FOODS (INDIA) PVT. LTD., 12/526A, POOVATUPARAMBU,CALICUT 673 008.**

BY ADV. SRI.SHAJI P.CHALY

RESPONDENTS: COMPLAINANT
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1. **STATE OF KERALA, REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

*2. **K.AJITH KUMAR, FOOD INSPECTOR, HARIPPAD CIRCLE.**

*** THE NAME OF 2ND RESPONDENT IS DELETED AS PER ORDER IN CRL.MA. 8066/03 DT. 8.8.03.**

BY ADV. PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.MC. NO.2897 /2000

ORDER ON CRL.MA. NO.5169/2003 IN CRL.MC. 2897/2000

DISMISSED

29.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

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K.R.UDAYABHANU, J

Crl.M.C.No.2897 of 2000

Dated this the 29th day of June, 2007

O R D E R

The revision petitioners are the accused in S.T.5/00 in the file of JFCM II, Harippadu with respect to the offence under Section 16(i)(a)(i)(II) and read with Section 2(ia) (a) (j) and Section 7(1) and (V) of PFA Act, 1954 and Rules 29(d) and 30 of PFA Rules, 1955 on the allegation that the soft drink concentrate purchased by the Food Inspector from the first accused on examination by public analyst was found to contain synthetic food colour exceeding the limit prescribed under Rule 30 of the PFA Rules.

2. The revision petitioners has produced Annexure A2 report of the chemical analyst which would show that the sample contained 2652.0 parts per million. The counsel has contended that the test conducted is in violation of Rule 30 which stipulates the maximum limit of 100 parts per million of final food or beverage for consumption. Evidently, it is the concentrate that has been tested in the laboratory. Counsel has relied on the

decision of the court below in P.K.Madhu and another vs. State of Kerala and another (2005(2) KLD (cri) 342) in this regard also.

3. Evidently, analysing of the concentrate is not contemplated under Rule 3 and hence in the absence of analysis of the sample of the final food or beverage for consumption, the prosecution cannot be sustained. Hence, the proceedings initiated in S.T.No.5/00 in the court of JFCM-II, Harippadu is herewith quashed.

The Crl.M.C. is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl